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Dkt. 44012-AB/JPW/AJM/NS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Eric A. Schon

Serial No.: 10/086,489

Examiner: Jeffrey Fredman

Filed : February 28, 2002

Group Art Unit: 1637

For : A METHOD TO DETECT MUTATIONS IN A NUCLEIC ACID
USING A HYBRIDIZATION-LIGATION PROCEDURE.

1185 Avenue of the Americas
New York, NY 10036
February 10, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**COMMUNICATION IN RESPONSE TO
JANUARY 10, 2005 RESTRICTION REQUIREMENT**

This Communication is submitted in response to the January 10, 2005 Office Action issued by the United States Patent and Trademark Office in connection with the above-identified application. A response to the January 10, 2005 Office Action is due February 10, 2005. Accordingly, this Communication is being timely filed.

In the Office Action, the Examiner restricted previously pending claims 1-89 to one of the following allegedly distinct inventions under 35 U.S.C. §121 as follows:

- I. Claims 1-67, drawn to methods of mutation detection, classified in class 435, subclass 6; and

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II. Claims 68-89, drawn to nucleic acid kits, classified in class 536, subclass 23.1.

Applicant notes that a Preliminary Amendment canceling claims 1-89 and adding new claims 90-163 was filed concurrently with the instant application on February 28, 2002. New claims 90-163 largely correspond to canceled claims 1-67 of Group 1, and are primarily directed to methods of mutation detection. Thus, applicant maintains that the January 10, 2005 restriction requirement was not warranted.

However, in order to facilitate prosecution of this application and avoid any doubt by the Examiner as to whether this Communication is responsive to the restriction requirement, applicant hereby elects, with traverse, Group I (understood to encompass claims 90-163), drawn primarily to methods of mutation detection, for prosecution at this time.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorneys invite the Examiner to telephone them at the number provided below.

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No fee is deemed necessary in connection with this Communication. However, if any fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:
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Alan J. Morrison
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2/10/05
Date